

Federal Energy Regulatory Commission

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(c) Unless an applicant for a license for a minor water power project requests in its application that the Commission apply the following provisions of Part I of the Federal Power Act when it issues a minor license for a project, the Commission, unless it determines it would not be in the public interest to do so, will waive:

(1) Section 4(b), insofar as it requires a licensee to file a statement showing the actual legitimate costs of construction of a project;

(2) Section 4(e), insofar as it relates to approval by the Chief of Engineers and the Secretary of the Army of plans affecting navigation;

(3) Section 6, insofar as it relates to the acceptance and expression in the license of terms and conditions of the Federal Power Act that are waived in the licensing order;

(4) Section 10(c), insofar as it relates to a licensee's maintenance of depreciation reserves;

(5) Sections 10(d) and 10(f);

(6) Section 14, with the exception of the right of the United States or any state or municipality to take over, maintain, and operate a project through condemnation proceedings; and

(7) Sections 15, 16, 19, 20 and 22.

[Order 413, 50 FR 11685, Mar. 25, 1985, as amended by Order 513, 54 FR 23806, June 2, 1989; Order 2002, 68 FR 51120, Aug. 25, 2003]

§4.61 Contents of application.

(a) *General instructions*—(1) *Entry upon land*. No work may be started on any proposed project works until the applicant receives a signed license from the Commission. Acceptance of an application does not authorize entry upon public lands or reservations of the United States for any purpose. The applicant should determine whether any additional Federal, state, or local permits are required.

(2) Exhibits F and G must be submitted on separate drawings. Drawings for Exhibits F and G must have identifying title blocks and bear the following certification: "This drawing is a part of the application for license made by the undersigned this _____ day of _____, 19____."

(3) Each application for a license for a water power project 5 megawatts or

less must include the information requested in the initial statement and lettered exhibits described by paragraphs (b) through (f) of this section, and must be provided in the form specified. The Commission reserves the right to require additional information, or another filing procedure, if data provided indicate such action to be appropriate.

(b) *Initial statement*.

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for License for a [Minor Water Power Project, or Major Water Power Project, 5 Megawatts or Less, as Appropriate]

(1) _____ (Name of Applicant) applies to the Federal Energy Regulatory Commission for _____ (license or new license, as appropriate) for the _____ (name of project) water power project, as described hereinafter. (Specify any previous FERC project number designation.)

(2) The location of the project is:

State or territory: _____

County: _____

Township or nearby town: _____

Stream or other body of water: _____

(3) The exact name, address, and telephone number of the applicant are:

(4) The exact name, address, and telephone number of each person authorized to act as agent for the applicant in this application, if applicable, are:

(5) The applicant is a _____ [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or State, as appropriate] and (is/is not) claiming preference under section 7(a) of the Federal Power Act. *See* 16 U.S.C. 796.

(6)(i) The statutory or regulatory requirements of the state(s) in which the project would be located that affect the project as proposed with respect to bed and banks and the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not

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clear, any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief description for each requirement]

(7) Brief project description

(i) Proposed installed generating capacity _____ MW.

(ii) Check appropriate box:

☐ existing dam ☐ unconstructed dam
☐ existing dam, major modified project
 (see §4.30(b)(14))

(8) Lands of the United States affected (shown on Exhibit G):

	(Name)	(Acres)
(i) National Forest
(ii) Indian Reserva- tion.
(iii) Public Lands Under Jurisdiction of.
(iv) Other
(v) Total U.S. Lands
(vi) Check appropriate box:		
<input type="checkbox"/> Surveyed land <input type="checkbox"/> Unsurveyed land		
(9) Construction of the project is planned to start within _____ months, and is planned to be completed within _____ months, from the date of issuance of license.		

(c) *Exhibit A* is a description of the project and the proposed mode of operation.

(1) The exhibit must include, in tabular form if possible, as appropriate:

(i) The number of generating units, including auxiliary units, the capacity of each unit, and provisions, if any, for future units;

(ii) The type of hydraulic turbine(s);

(iii) A description of how the plant is to be operated, manual or automatic, and whether the plant is to be used for peaking;

(iv) The estimated average annual generation in kilowatt-hours or mechanical energy equivalent;

(v) The estimated average head on the plant;

(vi) The reservoir surface area in acres and, if known, the net and gross storage capacity;

(vii) The estimated minimum and maximum hydraulic capacity of the plant (flow through the plant) in cubic feet per second and estimated average flow of the stream or water body at the plant or point of diversion; for projects

with installed capacity of more than 1.5 megawatts, monthly flow duration curves and a description of the drainage area for the project site must be provided;

(viii) Sizes, capacities, and construction materials, as appropriate, of pipelines, ditches, flumes, canals, intake facilities, powerhouses, dams, transmission lines, and other appurtenances; and

(ix) The estimated cost of the project.

(x) The estimated capital costs and estimated annual operation and maintenance expense of each proposed environmental measure.

(2) State the purposes of project (for example, use of power output).

(3) An estimate of the cost to develop the license application; and

(4) The on-peak and off-peak values of project power, and the basis for estimating the values, for projects which are proposed to operate in a mode other than run-of-river.

(5) The estimated average annual increase or decrease in project generation, and the estimated average annual increase or decrease of the value of project power due to a change in project operations (*i.e.*, minimum bypass flows, limiting reservoir fluctuations) for an application for a new license;

(6) The remaining undepreciated net investment, or book value of the project;

(7) The annual operation and maintenance expenses, including insurance, and administrative and general costs;

(8) A detailed single-line electrical diagram;

(9) A statement of measures taken or planned to ensure safe management, operation, and maintenance of the project.

(d) *Exhibit E* is an Environmental Report.

(1) For major unconstructed and major modified projects 5 MW or less. Any application must contain an Exhibit E conforming with the data and consultation requirements of §4.41(f) of this chapter, if the application is for license for a water power project which has or is proposed to have a total installed generating capacity greater

than 1.5 MW but not greater than 5 MW, and which:

(i) Would use the water power potential of a dam and impoundment which, at the time of application, has not been constructed (*see* § 4.30(b)(15)); or

(ii) Involves any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or elevation of an existing impoundment or involves any change in existing project works or operations that would result in a significant environmental impact (*see* § 4.30(b)(14)).

(2) *For minor projects and major projects at existing dams 5 MW or less.* An application for license for either a minor water power project with a total proposed installed generating capacity of 1.5 MW or less or a major project—existing dam with a proposed total installed capacity of 5 MW or less must contain an Exhibit E under this subparagraph. *See* § 4.38 for consultation requirements. The Environmental Report must contain the following information:

(i) A description, including any maps or photographs which the applicant considers appropriate, of the environmental setting of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses, historical and archeological resources, and scenic and aesthetic resources. The report must include a discussion of endangered or threatened plant and animal species, any critical habitats, and any sites included in, or eligible for inclusion in, the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(ii) A description of the expected environmental impacts from proposed construction or development and the proposed operation of the power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant,

the agencies, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources. The applicant must explain its reasons for not undertaking any measures proposed by any agency consulted.

(iii) A description of the steps taken by the applicant in consulting with Federal, state, and local agencies with expertise in environmental matters during the preparation of this exhibit prior to filing the application for license with the Commission. In this report, the applicant must:

(A) Indicate which agencies were consulted during the preparation of the environmental report and provide copies of letters or other documentation showing that the applicant consulted or attempted to consult with each of the relevant agencies (specifying each agency) before filing the application, including any terms or conditions of license that those agencies have determined are appropriate to prevent loss of, or damage to, natural resources; and

(B) List those agencies that were provided copies of the application as filed with the Commission, the date or dates provided, and copies of any letters that may be received from agencies commenting on the application.

(iv) Any additional information the applicant considers important.

(e) *Exhibit F.* *See* § 4.41(g) of this chapter.

(f) *Exhibit G.* *See* § 4.41(h) of this chapter.

[Order 185, 46 FR 55949, Nov. 13, 1981, as amended by Order 413, 50 FR 11685, Mar. 25, 1985; Order 464, 52 FR 5449, Feb. 23, 1987; Order 513, 54 FR 23806, June 2, 1989; Order 2002, 68 FR 51120, Aug. 25, 2003; 68 FR 61742, Oct. 30, 2003]

Subpart H—Application for License for Transmission Line Only

§ 4.70 Applicability.

This subpart applies to any application for license issued solely for a transmission line that transmits power from a licensed water power project to